

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Jimmie Sutton, aka Jimmie Archibald)	
Sutton,)	C/A No. 0:10-2326-MBS
)	
Petitioner,)	
)	
vs.)	
)	O R D E R
Warden John Owen,)	
)	
Respondent.)	
_____)	

Petitioner Jimmie Sutton is an inmate in custody of the Federal Bureau of Prisons. He currently is housed at FCI-Williamsburg in Salters, South Carolina. On September 8, 2010, Petitioner, proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, alleging that his sentence has been calculated erroneously.

This matter is before the court on motion to dismiss filed by Respondent John Owen on November 23, 2010. On November 24, 2010, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Petitioner of the dismissal procedures and the possible consequences of failing to respond adequately. Petitioner filed a response in opposition on December 28, 2010.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., the within action was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. On February 10, 2011, the Magistrate Judge issued a Report and Recommendation in which she noted that Respondent had explained the BOP's method of calculating Petitioner's sentence, and that Petitioner had failed to demonstrate that the BOP's calculations were incorrect. Accordingly, the Magistrate Judge recommended that Respondent's motion to dismiss be granted. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. For the reasons stated hereinabove and in the Report and Recommendation, Respondent’s motion to dismiss (ECF No. 11) is **granted**, and Petitioner’s § 2241 petition be denied.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

March 15, 2011.

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.